IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 15828 of 2003

Between:

K.V. Chakrapani S/o. K.V. Purushotham
Retired Principal, A.P.R.E.I,

R/o. Raghavendranagar, Near Uppal Depot,
Hyderabad - 500 039

..... PETITIONER

AND

1. The Secretary, A.P.Residential Educational Institutions Society, III Floor, Gagan Vihar, M.J. Road, Hyderabad - 500 001
2. The Member Secretary, Gurukulam, Telugu Samkshema Bhavan, 2nd Floor, Masab Tank, Hyderabad - 500 028

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to direct the Respondents to pay pension and other retiremental benefits due to the petitioner with interest on his retirement on 28-2-2001 by declaring the action of the Respondents in withholding the pension and other benefits of the petitioner as illegal, violative of Articles 14 & 300-A of the Constitution of India by issuing a Writ, more particularly one in the nature of *Writ of Mandamus* or any other Writ, Order or direction from this Hon'ble Court.

Counsel for the Petitioner: MR.V.V.NARASIMHA RAO

Counsel for the Respondents: MR.VIJAYA BHASKAR MOOLA

The Court made the following:

ORDER:

For declaring the action of the respondents in withholding the pension and other retiremental benefits due to the petitioner with interest on his retirement on 28.2.2001, as arbitrary and illegal, the present writ petition has been filed.

2 . The petitioner was a Principal, worked under the control of the first respondent, which is the parent Society of the petitioner i.e. A.P. Residential Educational Institutions Society. Earlier, the petitioner worked for some time as a Principal, A.P.R. School (ST-B), Srisailam Dast East, which was under the control of second respondent till 28.02.2001. On the day of his retirement on 28.2.2001, the petitioner was relieved from A.P.R. School (ST-B), Srisailam and reported to A.P. Residential Educational Institutions Society (for short 'APREI') office, Hyderabad i.e. the first respondent on the same day. The first respondent allowed the petitioner to retire from service. The services of the petitioner are blemishless and no adverse remarks were ever communicated to the petitioner at any point of time. But, the first respondent had mentioned in the relieving order of the petitioner bearing proceedings Rc.No.18055/01-99-2001, dated 7.3.2001 that the said disciplinary proceedings are pending against the petitioner. According to the petitioner, he was not served with any charge memo during his service as a Principal either by the second respondent or by the first respondent. The petitioner is not aware of the alleged disciplinary proceedings. The petitioner was not paid his pension and other retiremental benefits like Gratuity etc. Hence, the present writ petition.

3 . A counter affidavit has been filed by the first respondent stating that the petitioner has committed certain irregularities and as per the proceedings in Rc.No.1383/99/Admn.II, dated 28.2.2001 the petitioner was repatriated to first respondent society, relived him on 28.02.2001, and suggested to issue conditional retirement orders pending disciplinary action, since he did not hand over the complete charge of the Principal post at APTWR Schools, Kataram and Srisailam including Cash book, Bank pass book and all other records. The petitioner is yet to produce L.P.C. and No Due Certificate from the last station. Hence, the first respondent prays to dismiss the writ petition.

4. The second respondent filed a detailed counter affidavit stating that the petitioner was served with the notice from the office of the second respondent bearing Rc. No.1383/Ad.191)/2001, dated 23.03.2001 wherein the petitioner was instructed to hand over the complete charge of the post of Principal APTWRS (B) Kataram and APTWRS/JC(B), Srisailam immediately, failing which, suitable action will be taken against the petitioner, besides recovering the misappropriated amount of Rs.7,38,632/-. The petitioner did not comply with the notice. The enquiry report along with connected records relating to the said misappropriation case, were sent to first respondent for necessary action under whose control the petitioner worked at the time of his retirement. Hence, there are no merits in this writ petition and prays to dismiss the writ petition.

5. The petitioner filed a reply affidavit stating that he handed over the cash book, bank pass book and also other records to the Principal, A.P. Tribal Welfare School, Kataram, Karimnagar District. At the time of his supernnuation, the petitioner has taken no due certificate from concerned in charge i.e. Games, Stationery, Electrical etc., and handed over the list along with no due certificate to the In charge Principal, but the said principal did not sign on the cash book and also taken cash balance and pass book. He further stated that he did not misappropriate any amount. Though the petitioner was retired from service on 28.2.2001, no enquiry officer was appointed so far, and hence, he prays to allow the writ petition.

6. The learned counsel for the petitioner contended that though the petitioner was retired from service on 28.2.2001, his retirement benefits and other retiremental benefits have not been finalized. He further contended that in pursuance of the notice dated 16.3.2004 calling upon the petitioner to submit his explanation within 15 days from the date of receipt of the proceedings for committing certain irregularities as a principal as mentioned in the audit report. To that effect, the petitioner made a representation to the respondents on 25.3.2001 to furnish certain documents, but the respondents did not gave any response to the said representation and no enquiry officer was appointed as on

today.

7. On the other hand, the learned counsel for the respondents contended that the petitioner in the capacity of Principal has misappropriated certain amounts, and therefore, he has to give an explanation, and thereafter, after considering the explanation given by the petitioner, necessary action will be taken by the respondents in accordance with law.

8. The main grievance of the petitioner is that his retiremental benefits have not been settled so far and prays the Court to give a direction to the respondents for releasing the same.

9. On the other hand, according to the learned counsel for the respondents, since the departmental proceedings are pending against the petitioner, his retiremental benefits were not settled, and hence, there is no need to give a direction.

10. It is for the enquiry officer as to whether the petitioner has misappropriated the funds of the society or as to whether the petitioner has not hand over the full charge, is required to be gone into and decided in the enquiry. Therefore, without expressing any opinion with regard to the merits of the case, I deem it appropriate to dispose of the writ petition directing the first respondent to proceed further after receipt of the explanation from the petitioner.

11. It is made clear that the petitioner shall give an explanation within 15 days from the date of receipt of a copy of this order and he shall also cooperate with the further proceedings of the respondents without asking for any undue adjournments. The first respondent is required to supply such of those documents, which they intend to rely on the disciplinary proceedings. Thereafter, the disciplinary proceedings, if any, shall be completed within a period of three months from the date of receipt of explanation from the petitioner.

12. It is also made clear that the second respondent shall furnish all the records relating to the disciplinary proceedings to the first respondent forthwith.

13. With the above observation, the writ petition is disposed of. No order as to costs.

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(K.C. BHANU, J)

Date: 15.06.2005

Ksn

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Secretary, A.P.Residential Educational Institutions Society, III Floor, Gagan Vihar, M.J. Road, Hyderabad - 500 001
2. The Member Secretary, Gurukulam, Telugu Samkshema Bhavan, 2nd Floor, Masab Tank, Hyderabad - 500 028

3. 2 CD copies

4. 1 CC to MR.VIJAYA BHASKAR MOOLA

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